

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the proposed amendment ) NOTICE OF PUBLIC HEARING  
of ARM 23.16.1805 concerning refund of ) ON PROPOSED AMENDMENT  
permit fee )

TO: All Concerned Persons

1. On May 14, 2008, at 9:30 a.m., the Montana Department of Justice will hold a public hearing in the conference room at the Gambling Control Division, 2550 Prospect Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on May 12, 2008, to advise us of the nature of the accommodation that you need. Please contact Rick Ask, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; Montana Relay Service 711; or e-mail rask@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

23.16.1805 REFUND OF PERMIT FEE (1) ~~Refund of a~~ Except as provided  
in (2) and (3), no permit fee will be allowed only if the application for a permit is  
denied or withdrawn before issuance of the permit. ~~No permit fee, in part or whole,~~  
~~will be refunded after a permit is issued, regardless of whether the permit is used~~  
~~after issuance.~~

(2) A permit fee will be refunded if the permit application is denied or  
withdrawn before issuance of the permit.

(3) A permit fee may be refunded, upon written request, if applicant  
demonstrates that the permit was issued as the result of an inadvertent input error in  
the electronic permitting system and the erroneously permitted video gambling  
machine was not placed in service after issuance of the permit.

AUTH: 23-5-115, MCA  
IMP: 23-5-612, MCA

RATIONALE AND JUSTIFICATION: The proposed amendment is reasonable and necessary in view of the division's recent implementation of an electronic system that allows gambling licensees to apply online for video gambling machine (vgm) permits. Previously, vgm permits were issued manually by the department upon receipt of a paper application. The department's conversion to an electronic tax reporting and permitting system now allows gambling licensees to

apply for vgm permits, and pay fees for those permits, over the internet where the fees are paid and the permits issued virtually instantly.

Initial experience shows that online applicants occasionally make input errors that can result in issuance of a permit for an incorrectly identified vgm. To obtain the correct permit, the owner must apply for another permit and pay additional fees. The department recognizes that, consistent with its current refund policy, the vgm owner should receive a refund for an erroneously permitted vgm, so long as the vgm was not placed into service after issuance of the permit. Because the current rule does not allow fee refunds for permits erroneously issued through the electronic permitting system, this rule amendment will allow the department to issue a refund upon a written request and demonstration by the machine owner that the permit was issued due to an inadvertent input error while using the electronic permitting system, and that the machine was not placed into service.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Rick Ask, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424; fax (406) 444-9157; or e-mail [rask@mt.gov](mailto:rask@mt.gov), and must be received no later than May 22, 2008.

5. An electronic copy of this Notice of Proposed Amendment is available through the Department of Justice's web site at <http://doj.mt.gov/resources/administrativerules.asp>. The department strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department of Justice works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

6. The Department of Justice maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices of rules regarding the Crime Control Division, the Central Services Division, the Forensic Sciences Division, the Gambling Control Division, the Highway Patrol Division, the Law Enforcement Academy, the Division of Criminal Investigation, the Legal Services Division, the Consumer Protection Division, the Motor Vehicle Division, the Justice Information Systems Division, or any combination thereof. Such written request may be mailed or delivered to Rick Ask, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424; fax (406) 444-9157; or e-mail [rask@mt.gov](mailto:rask@mt.gov), or may be made by completing a request form at any rules hearing held by the Department of Justice.

7. Cregg Coughlin, Assistant Attorney General, Gambling Control Division, has been designated to preside over and conduct the hearing.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

By: /s/ Mike McGrath  
MIKE McGRATH  
Attorney General, Department of Justice

/s/ Stuart Segrest  
STUART SEGREST  
Rule Reviewer

Certified to the Secretary of State April 14, 2008.